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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,034	09/22/2003	Rainer Bosse	33544/US	1433

7590 05/05/2005

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EXAMINER
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VIRDI, SUNDEEP

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/668,034		BOSSE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Sundeeep S Viridi		3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>22 September 2003</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 12, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sweeney et al (5,599,318).

Sweeney discloses a cannula cover with a substantially closed front side (see figure 1) with a latch which can be unlatched by rotating the cover(see column 4 last paragraph, continued in column 5), a seal which exposes the cannula via a movement mechanism (see figures 1 and 2), where the cover can be retracted with a generally axial force on the cover (pulling axially on surface 50).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney in view of Geist (6,413,243):

Sweeney discloses the claimed invention as discussed above. However, Sweeney does not teach the use of two tongues sealing the cannula passage that are forced apart by lever action when the cover is retracted.

Geist discloses an apparatus for covering a used syringe needle that teaches the use of two tongues (22 and 24), which seal the cannula passage (see figures 2 and 3). The tongues provide a tight seal and allow for easy retraction of the cover to expose the needle. The two tongues ensure that both sides of the cannula are covered before use.

It would have been obvious to one of ordinary skill in the art to modify Sweeney and use two tongues as taught by Geist to ensure a tight seal and allow for both sides of the cannula to be covered before using the cannula.

5. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney in view of Galli (5,681,291).

Sweeney discloses the claimed invention as discussed above. However, Sweeney does not teach the use of a seal which is slid away from the cannula opening.

Galli discloses a sealing strip that is slid from the cannula passage opening by a slider that is on the cover (see figures 1-10) in order to make exposing the cannula for use quick and simple.

It would have been obvious to one of ordinary skill in the art to modify Sweeney with Galli and utilize a slider that removes a sealing strip from the cannula opening in order to quickly and simply expose the cannula as taught by Galli.

6. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney in view of D'Alessio et al (5,984,899).

Art Unit: 3763

Sweeney discloses the claimed invention as discussed above. However, Sweeney does not teach the use of a threaded insert with a spring element to bias either the cover or threaded insert.

D'Alessio discloses a needle protector that contains a threaded insert (416) with a spring for biasing the threaded insert (144) in order to securely mount a cap on the protector.

It would have been obvious to one of ordinary skill in the art to modify Sweeney and use the thread-spring arrangement of D'Alessio in order to securely mount a cap on the protector.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sundeep S Virdi whose telephone number is 571-272-4969. The examiner can normally be reached on M-F 9am-5:30p.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sundeep Viridi  
Art Unit 3763



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